

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING DIVISION**

DIANA MEY,

PLAINTIFF PRO-SE,

V.

CIVIL ACTION NO. 5:23-CV-281

LIBERTY HOME GUARD, LLC,

DEFENDANT.

MOTION FOR PROTECTIVE ORDER

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, Defendant Liberty Home Guard, LLC (“Defendant”) respectfully requests a protective order from the Court that precludes the Plaintiff from taking the deposition of the Defendant’s corporate representative, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, on January 31, 2024. In support, Defendant states as follows:

On December 1, 2024, Plaintiff, pro-se, noticed the 30(b)(6) deposition of Defendant for January 19, 2024 to take place at 707 Virginia Street East, Suite 260, Charleston, West Virginia 25301. Defendant notified Plaintiff that, since Defendant’s principal place of business is in Brooklyn, New York, the deposition would need to be done in Brooklyn, New York. *See* WRIGHT, MILLER, KANE, MARCUS & STEINMAN, FEDERAL PRACTICE AND PROCEDURE: CIVIL 2D, § 2112 (2015 rev.); *see also* *Salter v. Upjohn Co.*, 593 F.2d 649, 651 (1979) (“[t]he deposition of a corporation by its agents and officers should ordinarily be taken at its principal place of business,’ especially when, as in this case, the corporation is the defendant”); *Allied Security, Inc v. Massey Energy Co.*, No. 2:08-cv-001170, 2009 WL 10689050, at *2 (S.D.W. Va. Nov. 6, 2009).

Plaintiff agreed to reschedule the deposition to January 31, 2023. E-mails between Grayson O'Saile, Esq. and Diana Mey, Dec. 5, 2023, attached as Exhibit 1. Plaintiff also agreed to conduct the deposition remotely. Ex. 1. On January 26, 2024, five days before the deposition, Ryan Donovan, Esq. of Hissam Forman Donovan Ritche, PLLC called Defendant's counsel to notify counsel that he now represents Plaintiff and that he intended to take the deposition of Defendant in person, changing the agreed to remote nature of the deposition. Defendant's counsel attempted to confer in good faith with Plaintiff's counsel to reschedule the deposition in order for Defendant's counsel to arrange travel and appear in person at the deposition. Plaintiff's counsel refused.

Defendant is highly prejudiced by the sudden change of conditions for the deposition. This sudden change from the agreed to remote deposition to an in person deposition without adequate notice prevents Defendant's counsel from arranging travel to be able to appear in person for the deposition. Thus, Defendant respectfully requests this Court enter a protective order preventing Plaintiff from conducting Defendant's deposition on January 31, 2024, allowing for the parties to find a time where Defendant's counsel can be present in person for the deposition. Defendant does not intend to appear for the January 31, 2024 deposition. Plaintiff bears all risks of costs and fees of such deposition should Plaintiff proceed.

Dated this 26th day of January, 2024.

Respectfully submitted,

/s/ Grayson N. O'Saile
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CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the **26th day of January, 2024**, I served ***Motion for Protective Order*** via Certified Mail, Return Receipt Requested, at the following address:

Diana L. Mey
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Wheeling, West Virginia 26003
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(304) 280-1607
Plaintiff Pro-Se

/s/ Grayson N. O'Saile
Grayson N. O'Saile (WVSB #14091)